

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 345 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

(No. 1 to 5 NO)

STASTE OF GUJARAT

Versus

CHANDRAKANT A PARMAR

Appearance:

MR. KAMAL MEHTA, LD.PUBLIC PROSECUTOR for Petitioner
SERVED for Respondent No. 1

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 11/08/97

ORAL JUDGEMENT

The Respondent accused came to be acquitted of the offence punishable under section 7 (1) and 16 of the Prevention of Food Adulteration Act, 1954, under the orders dated 25th. January, 1990, pronounced by the Ld. JMFC, Padra, in Criminal Case No. 1645 of 1986. This orders of acquittal are in challenge in the present Appeal.

The Complainant Food Inspector had visited the shop of the respondent accused situated at Padra on 8-5-1986 at about 9.00 p.m., and had purchased the sample of curd. The sample was found to be adulterated. Necessary sanction was obtained and the respondent accused was tried. He came to be acquitted under the above said orders on two grounds. The Court below firstly has said that, after taking the sample of curd, nothing was done to make the sample a homogeneous one and to render it to a representative capacity, under which the sample would represent the quantity from which the sample was taken. The evidence on record goes to show very clearly that, nothing was done with a view to make the sample a homogeneous one and a representative one of the entire quantity of the curd. The Court below while coming to this conclusion has placed reliance upon the pronouncement of this Court in Mansinh Chhajuram Jadav, petitioner vs. State of Gujarat, Respondent, 1985 G L H, 728. It appears that the Court below by placing reliance upon this pronouncement was perfectly justified in coming to the conclusion that, the sample purchased by the complainant Food Inspector cannot be said to be a homogeneous one and a representative sample.

The Court below has also come to the conclusion that, there was the violation of the mandatory provisions contained in Section 11 (3) of the Prevention of Food Adulteration Act, 1954, which mandates that the collected sample has to be sent immediately on the succeeding working day. The evidence goes to show very clearly that the sample in question came to be collected on 8th May 1986, and though the next day was a working day, the sample could be forwarded only on May 12, 1986. This is also in violation of the mandatory provisions contained in section 11 (3) of the Prevention of Food Adulteration Act, 1954.

Therefore, it appears that, the Court below was perfectly justified in basing the orders of acquittal on the above said two prominent features of the case. In view of this, the present Appeal fails and the same requires to be dismissed. I order accordingly. The Judgment of Acquittal under challenge stands confirmed and upheld.

/vgn.